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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,320	03/24/2006	Patrick J. Brennan	QPCZ 2 00041 US	7136
27885 7590 02/05/2008 FAY SHARPE LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER RAEVIS, ROBERT R	
			ART UNIT 2856	PAPER NUMBER
			MAIL DATE 02/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,320

Applicant(s)

BRENNAN ET AL.

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/6, 7/6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As to claim 1, how does shaping ("shaped", line 3 from last) of the support allow for run off? Is the support really shaped? Also, what is a "solution source other than water"? Is there support for any such solution in the disclosure?

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, what does "solution source other than water" mean? After all, doesn't acid rain include water? What does Applicant have support for that is a "solution" other than water?

Claims 1,3,5,6,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mita et al.

Mita et al teach (Figure 1) an apparatus, including: test chamber; xenon lamp 11; dispenser/nozzle 20 connected to a source of acid 21; a pump 22 to control the liquid passing through the dispenser; and ring 13 to which specimens are secured.

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Mita does not state that the specimen is "horizontal".

As to claims 1,5,6,16, as the ring is horizontal, the specimen attached thereto may readily be horizontally attached thereto to permit for testing.

As to claim 3, note the humidifier 27 with control sensor 31.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mita et al as applied to claim 1 above, and further in view of Rathod et al or Grossman et al '591.

As to claim 7, either (1) Rathod teaches (Para 5) sensing output of lamps to control irradiance output of a weathering apparatus, suggestive of such control in Mita, or (2) Grossman et al teach (Figure 2) use of an irradiance controller for a weathering apparatus, suggestive of such control in Mita.

Claims 1,2,3,4,5,6,8,9,10,14,15,16,17,18,19,20,21,22,23,24,25,27,28,29,30,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomiita et al.

As to claims 1,5,6,16 Tomiita teaches (Figure 1) an apparatus, including: test chamber; xenon lamp 1; dispenser 13 for corrosive acid (sulphuric acid) for use of the dispenser for "10 seconds" (Para 4, line 50); and specimen 6 support 7.

As to claims 1,17, the specific time period is suggestive of a controller, and the device does simulate "natural conditions".

As to claims 2,4, the device simulates natural conditions at seashore or offshore, and controls the lamp for time periods ("6 to 18 hours", col. 4) accordingly.

As to claim 3, note humidity control (col. 4, line 57).

As to claims 8,18, note the blower 14, temperature sensor 22 and heater 10, and temperature controller 7a, and that the device does simulate "natural conditions".

As to claim 9, note col. 6, line 30.

As to claim 10, note the blower 14 and damper 9.

As to claim 14, the test is carried out "cyclically" (col. 5, line 21).

As to claim 15, note dispenser 12.

As to claims 19,20,22,24,25,28,29,31,the sample is "dried" (col. 5, line 10), and steps are carried out "cyclically" (col. 5, line 21), suggestive of "controlled" drying by either manual operation or use of a computer that will allow for automation to conserve human resources of what is otherwise carried out manually.

As to claim 21, effective "cleaning agents" (col. 3, lines 63-64) include those the employ water.

As to claim 23, the steps are carried out "cyclically".

As to claim 27, the blower and damper will influence the temperatures during drying.

As to claim 30, the testing is carried out "cyclically", and the device simulates "natural conditions".

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grossman '137 in view of Tomiita '636 in view of Tikhtman '581.

Grossman teaches every limitation except use of a humidifier control ,wetting, use of blower system, or control of the blower via dual temperature sensors.

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As to claims 32-34, it would have been obvious to employ humidifier control, temperature control with blower, and wetting in Grossman as Tomiita teaches all three to provide for an effective weathering test. It would have been obvious to employ a black panel temperature sensor for further (even alternate) control as Tikhtman teaches use of a black panel sensor to control temperature to provide for an effective weathering test.

Claims 32-34 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6,892,591 in view of either Tomiita et al or Mita.

Claim 5 of "591 teaches every limitation of claim 32, except does not state that the humidity is added by a humidifier, does not state that the specimen support is "in the test chamber", and does not "wet" the specimen.

As to claims 32,34, it would have been obvious to employ a humidifier in claim 5 as one of ordinary skill would employ an actual humidifier for adding humidity. In addition, it would have been obvious to wet the specimen in Claim 5, as either Tomiita or Mita teaches wetting specimens undergoing weathering testing. Finally, it would have been obvious to position the support "in the chamber" to assure that the specimen is actually tested under desired conditions within that same temperature.

As to claim 33, it would have been obvious to employ a horizontal support in Claim 5 as Mita teaches use of horizontal support rings 13.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suga's specimens are horizontal in nature.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on 571-272-2205. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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